

**Proposed Amendments to the Local Rules of Court
Effective July 1, 2010
Monterey County**

CHAPTER 4: PROBATE DEPARTMENT

4.58 INCOME TAX CERTIFICATE

- a) ~~Franchise Tax Board Certificate. If the inventoried estate is appraised at more than \$400,000 and more than \$100,000 in the aggregate has been distributed or is distributable to beneficiaries or heirs who do not reside in California, final distribution will not be permitted unless there is first filed with the clerk a state income tax certificate issued by the Franchise Tax Board pursuant to Revenue and Taxation Code section 19513 certifying that all state personal income taxes imposed upon the decedent or the estate have been paid or payment is secured. Such certificate is issued upon the condition that the decree of distribution will be signed by the Court on or before a specified date.~~
- b) ~~Expiration Date of Certificate. Decrees of final distribution will not be signed after the expiration of the date specified in the certificate. Although such certificate is not required and will not be issued by the Franchise Tax Board on a preliminary distribution, attorneys are cautioned that adequate funds must be withheld on preliminary distribution to pay or secure payment of such taxes on final distribution. Final distribution will not be allowed in the absence of such a certificate.~~
- e) ~~Application to Distributions to Trustees. This section also applies to all non-resident trustees, irrespective of place of residence of the beneficiaries.~~

(Adopted effective October 1, 1998; Rule 4.55 Renumbered as 4.58 effective January 1, 2009) (Repealed effective July 1, 2010)

CHAPTER 5: CONSERVATORSHIPS & GUARDIANSHIPS

5.01 FILINGS

- a) With the exception of Judicial Council Forms, all separately filed Pleadings must include in the caption, the date, time, and place of hearing.
- b) In all case types, Petitioners must provide information related to their personal residential address, home telephone number, work address, work telephone number, and cell phone number, if any. This information may be filed as a confidential document.
- c) A copy of all documents filed in a conservatorship proceeding must be served on the Court Investigator at the Monterey Branch of the Superior Court located at 1200 Aguajito Road, Monterey, CA 93940. Service may not be made to the Court investigator via facsimile without prior authorization from the Investigator's assistant. Service on the Investigator shall be reflected on the appropriate Proof of Service or Notice of Hearing filed with the Court.
- d) In accordance with the Information Practices Act of 1977 (Civil Codes sections 1798-1798.97), all files that contain any "personal information" identifying or describing an individual by means of those which include, but are not limited to, social security number, home address or telephone number, financial matters, maiden name, medical or employment records, drivers license, or statements made by, or attributed to, the individual, shall be filed

- with the Court as confidential documents. The information contained in these files shall only be disclosed where and how the Information Practices Act of 1977 permits.
- e) The filing of original bank statements is required where necessary. The submitting party may, however, file photocopies of the original bank statements if the submitting party verifies that the photocopies are true and correct copies of the original bank statements and have been personally reviewed by counsel. The last four (4) digits of all bank accounts shall be redacted.
 - f) The Court Investigator fee must be paid at the time the petition is filed in the following instances: Petition for Appointment of Probate Conservator, Petition for Appointment of Temporary Conservator, Conservator's Accountings when heard in conjunction with a Court Review, and/or Petition to Change Conservatee's Residence. If the Conservator believes the fees should be deferred or waived due to hardship, the subject petition shall include a request for deferral or waiver and shall set forth facts to establish a hardship. **The Court will not hear any petitions for the payment of fees to either the conservator or the attorney for the conservator unless all Court Investigator Fees have been paid, deferred or waived.** (Adopted effective October 1, 1998; Amended effective July 1, 2001; Amended effective January 1, 2004; Amended effective January 1, 2007; Amended effective January 1, 2010; Rule 5.27(f) Renumbered as 5.01(f), Relettered and Amended effective July 1, 2010)

CHAPTER 6: CIVIL DEPARTMENT

6.03 CALENDARS

- a) Civil Jury Trials **and Long Cause Court Trials**: Calendar call on Monday at 8:30 a.m. to be assigned by the Civil Supervising Judge.
- b) ~~Court Trials, Long Cause and Short Cause~~ **Trials**: Tuesday, ~~and~~ Wednesday, ~~and Thursday~~, at 8:30 a.m. as assigned by the Civil Supervising Judge.
- c) Creditor's Examinations and Prove-up Default hearings, **Monday**, Tuesday, **and** Wednesday, ~~and Thursday~~, 8:30 a.m., as assigned by the Civil Supervising Judge.
- d) Adoptions are heard on Wednesday at **8:30** ~~9:00~~ a.m. in the Family Law Court.
- e) Civil Harassment matters **are heard Monday at 2:00 p.m. as assigned**; and Civil Domestic Violence matters are heard Thursday at 8:30 a.m. in the Family Law Court.
- f) ~~Case Management.~~
 - ~~1. Order to Show Cause: Tuesday, Wednesday and Thursday, 8:30 a.m. or as otherwise ordered by the Court.~~
 - ~~2. Case Management Conferences: Thursday at 9:00 a.m., or as specially set or assigned by the Court.~~
- fg) Law & Motion and Case Management Conference.**
 - 1. Time: Friday, 9:00 a.m.
 - 2. Department: Except when sufficient judges are not available, Law & Motion **and Case Management Conferences** shall be divided and heard in two departments. The Court shall assign the appropriate department.
- g) Probate Hearings: Friday, 10:00 a.m.**
- h) ~~Probate and~~ Minor's Compromise hearings: Friday, 11:00 a.m.

- i) Unlawful Detainer Trials: **Monday**, Tuesday, **and** Wednesday, ~~and Thursday~~ at 8:30 a.m. as assigned by the Court.
- j) Settlement Conferences: Friday 1:30 p.m.; and as specially set.
- k) Small claims appeals: Tuesday, **and** Wednesday ~~and Thursday~~ at 8:30 a.m. as assigned by the Court.
- l) Small Claims and Vehicle Forfeiture Law & Motion: Monday at 8:30 a.m.
- m) Small Claims Trials: Monday at 8:30 a.m. and 1:30 p.m.

(Adopted effective October 1, 1998; Amended effective July 1, 2001; Amended effective January 1, 2003; Amended effective July 1, 2003; Amended effective July 1, 2004; Amended effective July 1, 2005; Amended effective July 1, 2007; Amended effective January 1, 2009; Amended effective July 1, 2009; Amended effective July 1, 2010)

6.07 POLICY GOALS

- a) The goals of the Monterey County Civil Case and Trial Management System are:
 - 1. to provide an effective and fair procedure for the timely disposition of civil cases;
 - 2. to provide a mechanism to gather needed case information in order to make appropriate judicial management decisions; and
 - 3. to establish reasonable rules and policies to require that cases reporting “ready” for trial may be tried without unnecessary delays or interruptions.
- b) It is the policy of this Court that all matters be resolved within 2 years of the filing of the complaint. Except for good cause shown, all matters will be set for trial within 3 to 5 months from the initial Case Management Conference. If for good cause shown it appears to the Court that the matter will not be ready for trial during this period, the Court will set further Case Management or Status Conferences as necessary.
- c) In order to effectuate these goals, it is the intent of the Court to differentiate between cases according to their anticipated complexity and length. In the discretion of the Court, cases will generally be assigned, under these policies and rules, into one of the following categories:

CATEGORY ONE: Category one cases are defined as cases that are expected to reach disposition in no more than 12 months. Generally, these cases would have an estimated length of trial of two days or less and/or present no complex issues. ~~These cases will be assigned a trial and mandatory settlement conference date and will be required to file a Trial Management Report and Brief, Friday prior to trial.~~

CATEGORY TWO: Category two cases are defined as cases that are expected to reach disposition in no more than 12 to 18 months. Generally, these cases would have an estimated length of trial of four days or less and/or present significant legal issues. ~~These cases will be assigned a trial, a status conference as necessary, a mandatory settlement conference date, and will be required to file a Trial Management Report and Brief four (4) court days prior to trial.~~

CATEGORY THREE: Category three cases are defined as cases that are expected to reach disposition in 18 to 24 months. Generally, these cases would have an estimated length of

trial of over four court days and/or present complex legal or factual issues. ~~These cases may be assigned a trial, status conference as necessary, and will be required to file a Trial Management Report and Brief four (4) court days prior to trial. In addition, these cases may be pre-assigned to a trial department for all purposes.~~

- d) The Court may in the interest of justice exempt a general civil case from the case disposition time goals under California Rule of Court 3.713 if it finds the case involves exceptional circumstances that will prevent the Court and the parties from meeting the goals and deadlines imposed by the program. In making the determination, the Court is guided by California Rules of Court 3.715 and 3.400.

If the Court exempts the case from the case disposition time goals, the Court must establish a case progression plan and monitor the case to ensure timely disposition consistent with the exceptional circumstances, with the goal of disposing of the case within three years.

- e) The Court recognizes that an early and amicable disposition will minimize costs to the litigants and public. The Court will encourage referrals to the court-directed mediation program, early voluntary settlement conferences and/or other alternative dispute resolution in all cases.
- f) Failure to follow these rules, file a mandatory Case Management Statement or Trial Management Report and/or attend a mandatory Case Management Conference may result in sanctions. (Adopted effective October 1, 1998; Amended effective January 1, 2007; Amended effective January 1, 2008; Subd. (e) Repealed, Rule Relettered effective January 1, 2009; Amended effective July 1, 2010)

6.08 FROM CASE FILING TO CASE MANAGEMENT CONFERENCE

- ~~a) On the filing of every complaint, including cases transferred in from another court, the clerk shall issue a CIVIL CASE MANAGEMENT NOTICE [APPENDIX A], a REQUEST TO VACATE OR CONTINUE INITIAL CASE MANAGEMENT CONFERENCE AND ORDER [APPENDIX D] and an ALTERNATIVE DISPUTE RESOLUTION INFORMATION PACKET to the filing party. The Clerk shall set a date for an initial CASE MANAGEMENT CONFERENCE and include that date in the Civil Case Management Notice. The date shall be set no later than 180 days from the filing of the complaint.~~

- a) On the filing of every complaint, the Clerk shall set a date for an initial CASE MANAGEMENT CONFERENCE at least 120 days but no later than 180 days from the filing of the complaint. Notice is in the form of a stamp on the face of the complaint.

- b) ~~A copy of the Civil Case Management Notice shall be served on opposing parties in addition to all other documents required to be served. A declaration of service of the Civil Case Management Notice shall be included in the proof of service.~~ Plaintiff shall serve all parties with notice of the initial Case Management Conference within the timeframe set forth in California Rule of Court 3.722(b).

- c) It is the policy of the Court that all complaints and cross-complaints be filed and served per California Rules of Court, Rule 3.110.
- ~~d) Unless otherwise ordered by the Court, responsive pleadings filed after demurrer, motion to strike, quash service, change venue, stay or dismiss the action shall be filed within 10 days following the notice of ruling.~~

- de) The attorneys and/or parties shall meet and confer no later than 30 days before the date set for the Case Management Conference as to all matters required to be contained

therein. They shall attempt to resolve potential disputes, establish a time schedule for completion of discovery consistent with the time standards contained in these rules, and determine which, if any, alternative dispute resolution procedure is appropriate and when it should be scheduled. (6.08(e) Amended eff. Jan. 1, 2010)

ef) The parties may request that the initial Case Management Conference be vacated or continued by filing the Request to Vacate or Continue Initial Case Management Conference and Order concurrently with the Case Management Statement. Receipt of a signed copy of the Request to Vacate or Continue Initial Case Management Conference and Order granting the request is necessary for parties to be excused from the Case Management Conference; if parties do not receive a signed copy of the Order granting the request, they must attend the initial Case Management Conference

fg) Based on its review of the Case Management Statements, the written submissions of the parties, and any such other information as is available, the Court may determine that appearances at a Case Management Conference are not necessary, issue a Case Management Order, and notify the parties that no appearance is required. In its review, the Court will consider the following factors:

1. Is the matter at issue? If not, why not?
2. Is the matter a complex case and/or one that may be protracted?
3. Are there disagreements between the parties concerning the status of the case, expected length of trial, discovery, complexity of the issue, or other relevant matters?
4. Is the matter one that may be amenable to early settlement or other alternative dispute resolution procedures?
5. Has a Request to Vacate or Continue Initial Case Management Conference and Order been filed by the parties?

gh) Discovery Referee Program Rule

1. Description.

To provide prompt, informal and expeditious resolution of discovery disputes that otherwise would consume court time and impose unnecessary attorney's fees and costs on litigants, the Court adopts a discovery referee program that gives parties the opportunity to elect in their Case Management Statement or by stipulation the appointment of an on call discovery referee pursuant to the Code of Civil Procedure §638 et seq. and these rules.

2. Referees.

(a) Appointment. By written stipulation or in their first Case Management Conference Statement, the parties may agree to the appointment of a discovery referee to be on call to resolve discovery disputes pursuant to these rules. The Court shall assign the case for reference using a Notice of Reference, having the form set forth in Appendix I, which shall direct the parties to the membership list of the Panel of Referees to be delivered to the parties at the Case Management Conference or as the Court otherwise directs.

(b) Terms of Compensation. The parties shall negotiate the terms of referee compensation with the discovery referee they select from the Panel of Referees.

(c) Payment. The parties may agree in writing to pay the discovery referee's fee in other than equal portions. The parties shall pay the discovery referee directly.

3. Timing and Scheduling of Reference.

(a) Parties' Duty to Determine Discovery Referee Conflicts of Interest and to Deliver Documents. Within ten (10) days of the issuance of a Notice of Reference (Appendix I), the parties shall select a referee from the Panel of Referees and contact the referee to negotiate the terms of compensation in the event a party requests reference services of the referee.

(b) Reference Process. *Initiation of the reference shall be made by a party* by faxing or e-mailing a written request for reference to the referee accompanied by a letter brief, which shall also be served on all other parties in the action. Within three (3) court days of service, the responding party(ies) shall serve a reply letter brief on the referee, the initiating party and all other parties in the action by fax or e-mail.

(c) Referee Responsibilities. Promptly after receiving letter briefs, the referee shall contact the parties by conference call: (1) to announce a ruling based on the letter briefs, (2) where appropriate, to request further argument, or (3) to ascertain before announcing the ruling whether the parties agree to accept the referee's recommendation resolving the discovery dispute or whether the recommendation must be ruled on by the Court. Within five (5) days of the conference call, the referee shall file a Report of Referee in the form set forth in Appendix J.

(d) Deadline for Conducting Reference. *The resolution of the discovery dispute* by the referee shall occur within ten (10) days after the *initiation of reference proceedings before the discovery referee*.

4. Written Letter Briefs.

(a) Filing Prohibition. Letter briefs shall not be filed with the Court.

(b) Content of the Letter Brief. Letter briefs shall be concise, include any information that may be useful to the discovery referee, and

(1.) Identify by date, title or other concise description the discovery items in dispute; and

(2.) State concisely the party's position(s) in the discovery dispute.

5. Contact with the Discovery Referee before Reference Proceedings.

Except as provided herein, before the conference call provided for in these rules, the parties shall not individually contact the discovery referee.

6. Informality.

The reference procedure shall be conducted informally by unreported conference calls, written letter briefs, and by means of written final orders or recommendations by the discovery referee.

7. Report of Referee.

Following the reference proceeding, *unless waived by the parties*, the referee shall prepare a Report of Referee in the form set forth in Appendix J. The report shall state

(1) the date on which the reference proceeding took place; (2) whether the parties accepted the ruling of the referee as resolving the discovery dispute and; or in the alternative (3) that at least one party objected and required that the Report of Referee be forwarded to the Court. The Report of Referee shall concisely state the referee's recommendation.

8. Implementing Referee Recommendations.

If the parties have agreed to accept the referee's recommendation, the referee shall serve the report only on the parties. If the Report of Referee reflects that at least one party objected and required that the Report be forwarded to the Court, the referee shall serve the report on the parties and file the report with the Court. The recommendation of the referee shall be subject to adoption by the Court as an order after fifteen (15) days have elapsed from the date of service, unless the party who objected and required the forwarding of the Report files and serves a motion objecting to the entry of the order within fifteen (15) days of the date of service.

9. Membership on the Discovery Referee Panel.

Any member of the Monterey County Bar Association with five (5) years of civil litigation experience may submit a written application to the Executive Director of the Monterey County Bar Association. The list of qualified Referee Panel members will be posted on the Superior Court and County Bar Association websites. (Adopted effective October 1, 1998; Amended effective January 1, 2003; Amended effective July 1, 2004; Amended effective January 1, 2007; Amended effective January 1, 2008; Amended effective January 1, 2010; Subd. (d) Repealed, 6.08 (e-h) Relettered, Amended effective July 1, 2010)

6.09 CASE MANAGEMENT CONFERENCES

- a) ~~Case Management Conferences may be set at a time and date different than that set forth in 6.03(f)(2) as determined by the Supervising Judge of the Civil Department.~~ Case Management Statements shall be filed 15 days prior to the date of the hearing pursuant to California Rule of Court 3.725.
- b) At the Case Management Conference, counsel for each party and each self-represented party must appear personally or telephonically, must be familiar with the case, and must be prepared to discuss all matters contained in the Case Management Statements. Failure to attend or to participate effectively may result in appropriate sanctions.
- c) At or before the Case Management Conference, the Court may determine the appropriate jurisdictional level and/or take any of the following actions:
 1. Determine the potential complexity and/or length of the matter and assign it to a CASE CATEGORY;
 2. Refer the matter to arbitration, voluntary settlement conference, private mediation, court-directed mediation, or other alternative dispute resolution procedure;
 3. Order that the rules for Economic Litigation shall apply, CCP 90 and 91;
 4. Assign the case to a particular judge for all purposes;
 5. Make orders establishing discovery schedules including but not limited to a discovery cut-off, exchange of expert witness information, and a schedule for completion of expert depositions;

6. Set the matter for mandatory settlement conference as provided in these rules;
 7. Assign a trial date;
 8. Make appropriate Trial Management Orders in accordance with these rules; and/or
 9. Make any other orders to achieve the interests of justice and the timely disposition of the case.
- d) If it appears for good cause that the matter will not be ready for trial within 3 to 5 months of the Case Management Conference, the Court shall set additional Case Management or Status Conferences as necessary.
 - e) Failure to file a Case Management Statement, appear at the Case Management Conference, or participate effectively at the Case Management Conference may result in appropriate sanctions. (Adopted effective October 1, 1998; Amended effective January 1, 2003; Amended effective January 1, 2007; Amended effective July 1, 2010)

~~6.10 TRIAL MANAGEMENT ORDERS, REPORTS AND CONFERENCES~~

- ~~a) Case Management Conferences shall be set at a time and date determined by the Supervising Judge of the Civil Department.~~
- ~~b) If Case Management Statements are ordered to be filed they shall be filed 15 days prior to the date of the hearing per California Rules of Court, Rule 3.725.~~
- ~~c) Counsel and/or parties attending the conference shall be familiar with the case and fully prepared to discuss all matters contained in the Case Management Statements. Failure to attend or to participate effectively may result in appropriate sanctions.~~
- ~~d) At or before the Case Management Conference, the Court may make any of the orders indicated above, and, determine the appropriate jurisdictional level. If it appears for good cause that the matter will not be ready for trial within 3 to 5 months of the Case Management Conference, the Court shall set additional Case Management or Status Conferences as necessary. (Adopted effective October 1, 1998; Amended effective January 1, 2003; Amended effective July 1, 2004; Amended effective January 1, 2008)~~

6.10 MANAGEMENT OF TRIAL

If a case is reported ready for trial and has not settled, it is reasonable for the court to expect that the parties are prepared, have timely reviewed and exchanged information, and that there will be no unnecessary delays in the trial. Trial Management policies, orders, reports, and/or conferences are means for the Court to monitor trial preparation and ensure that the parties are aware of and comply with the Court's expectations. The parties are expected to meet, confer, and cooperate in complying with these rules. (Adopted effective October 1, 1998; Amended effective January 1, 2003; Amended effective July 1, 2004; Amended effective January 1, 2008; Amended and Re-titled effective July 1, 2010)

~~6.11 MANAGEMENT OF THE TRIAL~~

- ~~a) If a case is reported ready for trial and has not settled, it is reasonable for the Court to expect the parties are prepared, have timely reviewed and exchanged information, and that there will be no unnecessary delays in the trial. Trial Management policies, orders, reports, and/or conferences are means for the Court to monitor trial preparation and ensure that the~~

~~parties are aware of and comply with the Court's expectations. The parties are expected to meet, confer, and cooperate in complying with these rules.~~

- ~~b) On review of the Case Management Statements, at the Case Management Conference, or at any time thereafter as it appears appropriate to the Court, the Court shall determine or modify trial management procedures and assign cases and Trial Management requirements as follows:~~
- ~~1. CATEGORY ONE cases will be required to comply with the Court's orders, meet and confer with other Counsel and/or parties, and prepare a Trial Management Report and Brief [APPENDIX C] to be filed Friday before trial.~~
 - ~~2. CATEGORY TWO cases will be required to comply with the Court's orders, meet and confer with other counsel and/or parties, and prepare a Trial Management Report and Brief [APPENDIX C], which shall be filed and personally served, no later than 3:00 p.m., four (4) court days prior to trial.~~
 - ~~3. CATEGORY THREE cases will be required to comply with the Court's orders, meet and confer with other counsel and/or parties, prepare a Trial Management Report and Brief [APPENDIX C], and attend a Trial Management Conference as necessary. Trial Management Conference Reports shall be prepared in the format indicated in APPENDIX C and shall be served and filed (4) court days prior to trial. (Adopted effective October 1, 1998; Amended effective July 1, 1999; Amended effective January 1, 2003)~~

6.11 TRIAL MANAGEMENT ORDERS AND REPORTS

In order to ensure that the case is ready for trial and that there will be no unnecessary delays, the following orders are made:

1. Trial counsel for each of the parties shall meet and confer prior to trial for purposes of reviewing exhibits, potential witnesses, stipulations, exchange of trial motions, and compliance with this order. Failure to meet and confer concerning the matters herein may result in sanctions in accordance with CCP § 575.2, including but not limited to the exclusion or limitation of evidence, monetary sanctions, dismissal of the case, or entry of a default judgment.
2. The attorneys shall prepare a Trial Management Report and Brief [APPENDIX A] and submit the Report as follows:

Category One: Friday prior to trial.

Category Two: Four (4) court days prior to trial, no later than 3:00 p.m.

Category Three: The Court may set a Trial Management Conference approximately 10 days prior to trial. The attorneys shall meet and confer, prior to the Trial Management Conference, for purposes of preparing the Trial Management Report and Brief. The Trial Management Report and Brief shall be filed jointly or individually at least three days prior to the Conference, otherwise (4) court days prior to trial. (Adopted effective October 1, 1998; Amended effective July 1, 1999; Amended effective January 1, 2003; Amended and Re-titled effective July 1, 2010)

6.12 COURT-DIRECTED MEDIATION PROGRAM RULES

- a) Eligible Cases. The Court shall determine those cases that are suitable for the Mediation Program and shall announce the determination orally to the parties at a case management conference in civil cases when the case is set for trial.

Civil Harassment cases may be considered eligible for this program if the case involves issues normally subject to civil litigation. The determination of suitability can be made either at the time of the submission of a Temporary Restraining Order or upon hearing of the matter.

b) Mediators.

1. Appointment. If the parties accept the Court's determination and agree to mediation, the Court will assign the case for mediation before one of two mediators, one of whom shall be the assigned mediator and other shall be the alternate mediator who shall take the case in the event of a conflict of interest with the assigned mediator. At the case management conference, the Court shall issue to the parties a Notice of Referral to Mediation having the form set forth in Appendix E to these rules. The Court shall select the assigned and alternate mediators from the Mediator Panel compiled by the Mediator Credentials Committee of the Mandell-Gisnet Center for Conflict Resolution, Monterey College of Law. Membership on that panel shall be approved by the Court, and the list of panel members shall be published on the Court's web site. If both the assigned and alternate mediators have conflicts of interests, the parties shall stipulate to mediation before a mediator willing to serve who is a member of the Mediator Panel.

Since there is no requirement for Case Management in Civil Harassment cases, the Notice of Referral will be issued when the determination is made by the court and the terms of such notice may be modified as appropriate to accommodate the different procedural structure for Harassment cases.

2. Compensation. Mediators shall volunteer their preparation time and the first two (2) hours of mediation. After two hours of mediation, the mediator may either (1) continue to volunteer his or her time or (2) give the parties the option of concluding the procedure or paying the mediator for additional time at an hourly rate of \$200. The mediation will continue only if all parties and the mediator agree. After eight hours in one or more mediation sessions, if all parties agree, the mediator may charge his or her hourly rate or such other rate that all parties agree to pay. In special circumstances for complex cases, requiring substantial preparation time, the parties and the mediator may make other arrangements. No party may offer or give the mediator any gift.

3. Payment. All terms and conditions of payment must be clearly communicated to the parties by the mediator. The parties may agree in writing to pay the fee in other than equal portions. The parties shall pay the mediator directly.

4. Mediation Agreement. A MEDIATION AGREEMENT between the assigned mediator and the parties shall have the form set forth in Appendix F and shall set forth the terms of the engagement, including, but not limited to, a specific enumeration of the *pro bono* hours, the parties' option to continue mediation on a specific fee basis after the *pro bono* hours have been spent, confidentiality, disclosure of conflicts of interest, and the incorporation by reference of the Mediation Program local rules. The mediation agreement shall be fully signed before the commencement of the mediation session.

c) Timing and Scheduling the Mediation.

1. Parties Duty to Determine Mediator Conflicts of Interest and to Deliver Documents to the Mediator. Within 10 days of their appearance at the Case Management Conference at which mediation is ordered, the parties shall confer with the assigned mediator and, if necessary, the alternate mediator, to determine whether conflicts of interest exist. They shall also deliver complete copies of their Case Management Statements and a copy of the Notice of Referral to Mediation to the mediator.

2. Scheduling by Mediator. Promptly after being appointed to a case, the parties shall contact the mediator who shall inform counsel of the dates on which the mediator can be available for mediation ("potential dates"). Counsel shall then confer with their clients and each other, and counsel representing plaintiff shall then inform the mediator which of the potential dates is available to the parties and their counsel. The mediator shall then fix the date and place of the mediation within the deadlines set forth by these rules, or in the Notice of Referral to Mediation. Counsel shall respond promptly to and cooperate fully with the mediator with respect to scheduling the mediation session.

3. Deadline for Conducting Mediation. Unless otherwise ordered, the mediation shall be held within 90 days after the Court orders the matter to mediation.

d) Written Mediation Statements.

1. Time for Submission. No later than 10 calendar days before the first mediation session, each party shall submit directly to the mediator, and shall serve on all other parties, a written Mediation Statement.

2. ~~Prohibiting~~ Prohibition Against Filing. Mediation statements shall not be filed with the Court.

3. Content of Statement. The statements shall be concise, include any information that may be useful to the mediator, and shall:

i. Identify, by name and title or status of, the persons(s) with decision-making authority, who, in addition to counsel, will attend the mediation as representative(s) of the party, and persons connected with a party opponent (including an insurer representative) whose presence might substantially improve the utility of the mediation or the prospects for settlement;

ii. Describe briefly the substance of the suit addressing the party's view of the issues and liability of damages and discussing the key evidence;

iii. Identify the discovery or motions that promise to contribute most to equipping the parties for meaningful settlement negotiations;

iv. Describe the history and current status of any settlement negotiations and provide any other information about any interests or considerations not described elsewhere in the statement that might be pertinent to settlement; and

v. Include copies of documents likely to make the mediation more productive or improve settlement prospects.

e) Contact with Mediator before the Mediation. Before the mediation, the mediator may allow the parties to submit an additional confidential written statement for the mediator only, or may discuss the case in confidence with a party and the party's lawyer during a telephone conversation. The mediator shall not disclose any party's confidential communications without the party's permission.

f) Attendance at the Mediation Session.

1. Parties. All named parties and their counsel are required to attend the mediation session unless ~~excuse~~ excused under paragraph 4, below. This requirement reflects the Court's view that the principal values of mediation include affording litigants the

opportunity to articulate directly to other litigants and a neutral mediator their positions and arguments and to hear first hand. Mediation also enables parties to collaborate in the search for mutually agreeable solutions.

i. Corporation or Other Entity. A party other than a natural person (e.g., a corporation or an association) satisfies this attendance requirement if represented by a person (other than outside counsel) who has authority to settle and who is knowledgeable about the facts of the case.

ii. Government Entity. A unit or agency of government satisfies this attendance requirement if represented by a person who has, to the greatest extent feasible, authority to settle, and who is knowledgeable about the facts of the case, the governmental unit's position, and the procedures and policies under which the governmental unit decides whether to accept proposed settlements. If the action is brought by a governmental entity on behalf of one or more individuals, at least one such individual also shall attend.

2. Counsel. Each party shall be accompanied at the mediation by the lawyer who will be primarily responsible for handling the trial of the matter.

3. Insurers. Insurer representatives who are necessary are required to attend in person unless excused under paragraph 4, below.

4. Request to be Excused. A person who is required to attend mediation may be excused from attending in person only after demonstrating to the mediator that his or her personal attendance would impose an extraordinary or otherwise unjustifiable hardship.

5. Participation by Telephone. A person excused from appearing in person at the mediation session shall be available to participate by telephone.

6. Failure to comply with this rule may result in an award of attorney fees or sanctions pursuant to California Rules of Court 2.30 and Code of Civil Procedure section 128.5.

g) Procedure at Mediation.

1. Procedure. The mediation shall be informal. Mediators shall have discretion to structure the mediation to maximize the benefits of the process.

2. Separate Caucuses. The mediator may hold separate, private caucuses with each side or each lawyer or, if the parties agree, with the clients only. The mediator may not disclose communications made during such caucuses to another party or counsel without the consent of the party who made the communication.

h) Confidentiality.

1. Confidential Treatment. Except as provided in subdivision 2 below entitled Limited Exceptions to Confidentiality, the mediator, all counsel and the parties, and any other persons attending the mediation shall treat all statements made at the session, and documents prepared for and created at the session as "confidential information". The confidential information shall not be:

i. disclosed to anyone not involved in the litigation;

ii. disclosed to the Court; or

iii. used for any purpose, including impeachment, in any pending or future proceeding in this Court.

2. Limited Exceptions to Confidentiality. This rule does not prohibit:
 - i. disclosures as may be stipulated by all parties and the mediator;
 - ii. a report to or any inquiry by the Court regarding a possible violation of these Mediation Program rules;
 - iii. any participant or the mediator from responding to an appropriate request for information duly made by the persons authorized by the Court to monitor or evaluate the Court's Mediation program; or
 - iv. disclosures as are otherwise required by law.
 3. Confidentiality Agreement. The mediator may ask the parties and all persons attending the mediation to sign a confidentiality agreement on a form provided by the Court or included in the Mediation Agreement utilized by the Mediator.
- i) Follow Up. At the close of the mediation session, the mediator and the parties shall jointly determine whether it would be appropriate to schedule a follow up session. The follow up could include, but need not be limited to, written or telephonic reports that the parties might make to one another or to the mediator, the exchange of specified kinds of information, or another mediation session.
 - j) Certification of Session. Within 10 days of the close of each mediation session the mediator shall report to the Court on the status of the mediation by filing with the Court the STATEMENT OF AGREEMENT OR NONAGREEMENT (ADR-100) [Appendix G], and shall serve a copy of the Statement of Agreement or Non-Agreement on the Monterey County Bar Association.
 - k) Membership on the Mediator Panel.
 1. The Court has established an Alternative Dispute Resolution (ADR) Committee pursuant to California Rules of Court 10.782 and 10.783. The Committee is responsible for overseeing the ADR programs for general civil cases, including the responsibilities specified in Rule 3.813(b) relating to the court's Judicial arbitration program.
 2. The Court shall maintain a panel of mediators. The ADR committee shall review applications from potential mediators, evaluations of panel members, and make recommendations to the Presiding Civil Judge on the designation of panel mediators. The ADR committee shall designate the panel, and may add or remove mediators from the panel at any time.
 3. Any attorney or retired judge may apply to the ADR Committee for membership on the Court directed mediation panel by submitting a letter application to the ADR Coordinator at the Monterey County Superior Court. The application shall state the applicant's mediation training and experience, and include at least three references from individuals who have participated in a mediation conducted by the applicant. If the ADR Committee determines that the applicant is qualified for membership on the Mediation Panel, the ADR Committee shall add the applicant's name to the list of members. (Adopted effective January 1, 2006; Amended effective January 1, 2008; Subd. f (6) Added and Rule Amended effective January 1, 2009)
 - l) Procedures for Handling Complaint about Court-Program Mediators
 1. Application.

The rules in this chapter establish the court's procedures for receiving, investigating, and resolving complaints about mediators in the court's mediation program for general civil cases, as required by rule 3.868 of the California Rules of Court. Nothing in these rules should be interpreted in a manner inconsistent with rules 3.865–3.862 of the California Rules of Court or as limiting the court's inherent or other authority, in its sole and absolute discretion, to determine who may be included on or removed from its list of mediators or who may be recommended, selected, appointed, or compensated as a mediator by the court. These rules also do not limit the court's authority to follow other procedures or take other actions to ensure the quality of mediators who serve in the court's mediation program in contexts other than when addressing a complaint. The failure to follow a requirement or procedure in these rules will not invalidate any action taken by the court in addressing a complaint.

2. Definitions.

As used in this chapter:

- (1) "The rules of conduct" means the Rules of Conduct for Mediators in Court-Connected Mediation Programs for Civil Cases set out in rules 3.850–3.860 of the California Rules of Court.
 - (2) "Court-program mediator" means a mediator who:
 - (a) Has agreed to be included on the court's list or panel of mediators for general civil cases and is notified by the court or the parties that he or she has been selected to mediate a case within the court's mediation program; or
 - (b) Has agreed to mediate a general civil case in the court's mediation program after being notified by the court or the parties that he or she was recommended, selected, or appointed by the court or will be compensated by the court to mediate that case.
 - (3) "Inquiry" means an unwritten communication presented to the court's complaint coordinator indicating that a mediator may have violated a provision of the rules of conduct.
 - (4) "Complaint" means a written communication presented to the court's complaint coordinator indicating that a mediator may have violated a provision of the rules of conduct.
 - (5) "Complainant" means the person who makes or presents a complaint.
 - (6) "Complaint coordinator" means the person designated by the supervising civil judge to receive complaints and inquiries about the conduct of mediators.
 - (7) "Complaint proceeding" means all of the proceedings that take place as part of presenting, receiving, reviewing, responding to, investigating, and acting on any specific inquiry or complaint.
 - (8) "Mediation communication" means any statement that is made or any writing that is prepared for the purpose of, in the course of, or pursuant to a mediation or a mediation consultation, as defined in Evidence Code section 1115, and includes any communications, negotiations, and settlement discussions between participants in the course of a mediation or a mediation consultation.
- ## 3. Confidentiality.
- (a) Preserving the confidentiality of mediation communications.

All complaint proceedings will be conducted in a manner that preserves the confidentiality of mediation communications, including but not limited to the confidentiality of any communications between the mediator and individual mediation participants or subgroups of mediation participants.

(b) Confidentiality of complaint proceedings.

All complaint proceedings will occur in private and will be kept confidential. No information or records concerning the receipt, investigation, or resolution of an inquiry or a complaint will be open to the public or disclosed outside the course of the complaint proceeding except as provided in rule 3.871(d) of the California Rules of Court or as otherwise required by law.

4. Submission of inquiries and complaints to the complaint coordinator.

All inquiries and complaints should be submitted or referred to the complaint coordinator.

5. Addressing inquiries.

If the complaint coordinator receives an inquiry, the coordinator must inform the person making the inquiry that the complaint procedure provides for investigation of written complaints only and that the person should submit a written complaint if he or she wants the court to conduct an investigation or take action. If the person does not submit a complaint, the complaint coordinator may prepare a written summary of the inquiry.

6. Acknowledgment and preliminary review of complaints.

(a) Acknowledgment of complaints.

When the complaint coordinator receives a complaint, the coordinator will send the complainant a written acknowledgment of this receipt.

(b) Preliminary review of complaints.

(1) The complaint coordinator will review each complaint to determine whether it warrants investigation or can be promptly, informally, and amicably resolved or closed. The coordinator may:

(A) Informally contact the complainant to obtain clarification or additional information or to provide information that may address the complainant's concern.

(B) Communicate informally with the mediator to obtain the mediator's perspectives.

(2) If it appears to the complaint coordinator that the mediator may have violated a provision of the rules of conduct, the complaint coordinator must inform the mediator about the complaint and give the mediator an opportunity to provide an informal response.

(3) The complaint coordinator may close a complaint without initiating an investigation if:

(A) The complaint is withdrawn by the complainant; or

(B) The complainant, the mediator, and the complaint coordinator have agreed on a resolution to the complaint.

(4) With the consent of the presiding civil judge or the presiding civil judge's designated judicial officer, the complaint coordinator may close a complaint without initiating an investigation if:

(A) No violation of the rules of conduct appears to have occurred or the complaint is without sufficient merit to warrant an investigation; or

(B) The conduct alleged would constitute a very minor violation of the rules of conduct, the coordinator has discussed the complaint with the mediator, and the mediator has provided an acceptable explanation or response.

(c) Notification of closure

If the complaint coordinator closes a complaint without initiating an investigation, the coordinator must send the complainant notice of this action.

7. Appointing an investigator or a complaint committee.

The supervising civil judge will appoint an investigator who has experience as a mediator and is familiar with the rules of conduct, or a complaint committee that includes at least one such individual, to investigate and make recommendations concerning any complaint that is not resolved or closed by the complaint coordinator as a result of the preliminary review.

8. Investigations.

(a) Application.

The procedures in this rule apply only if a complaint is not resolved or closed through the preliminary review or if the complaint coordinator initiates an investigation under (c).

(b) Referral of a complaint for investigation.

If a complaint is not closed as a result of the preliminary review, the complaint coordinator will refer it to the investigator or complaint committee for investigation.

The complaint coordinator will provide the investigator or complaint committee with a summary of the preliminary review that includes:

- (1) A copy of the complaint;
- (2) A copy or summary of any response from the mediator;
- (3) A list of any violation of the rules of conduct that it appears may have occurred; and
- (4) Copies of any previous complaints about the mediator and any written summaries of inquiries that are relevant to the current complaint.

(c) Initiation by the complaint coordinator.

The complaint coordinator may initiate an investigation based on information received from any source, including an inquiry, indicating that a mediator may have violated a provision of the rules of conduct. To initiate the investigation, the complaint coordinator must refer the information received to an investigator or complaint committee with a list of the violations of the rules of conduct that it appears may have occurred.

(d) Mediator's notice and opportunity to respond.

(1) The investigator or complaint committee must provide the mediator with a copy of the materials provided to the investigator or complaint committee by the committee by the complaint coordinator under (b) or (c).

(2) The mediator will be given an opportunity to respond to the complaint and the list of apparent violations.

(e) Preparing report and recommendation.

The investigator or complaint committee will conduct the investigation that the investigator or complaint committee considers appropriate. Thereafter, the investigator or complaint committee will prepare a written report that summarizes the investigation and states the investigator's or complaint committee's recommendation concerning the final decision on the complaint. The investigator or complaint committee may recommend one or more actions that are permissible under rule 3.870 of the California Rules of Court.

(f) Informing mediator of recommendation.

The investigator or complaint committee may inform the mediator of its recommendation and inquire whether the mediator accepts that recommendation. If the mediator accepts the recommendation, the investigator's or complaint committee's report must indicate this.

(g) Submitting report and recommendation.

The investigator or complaint committee must submit its report and recommendation to the complaint coordinator. The complaint coordinator must promptly forward a copy of the report and recommendation to the supervising civil judge.

9. Final decision on a complaint that was investigated.

Responsibility for final decision.

The supervising civil judge is responsible for making the final decision about the action to be taken on any complaint that was investigated under rule 6.12(l) or for designating another judicial officer or a committee that includes a judicial officer to perform this function.

(b) Acting on recommendation.

(1) Within 30 days after the investigator's or complaint committee's recommendation is forwarded to the supervising civil judge, the supervising civil judge or designee may submit to the complaint coordinator a decision:

- (A) Affirmatively adopting the investigator's or complaint committee's recommendation as the final decision on the complaint; or
- (B) Directing a different action that is permissible under rule 3.870 of the California Rules of Court.

(2) If the supervising civil judge or designee does not submit a decision within 30 days after the complaint committee's recommendation is forwarded, as provided in (1), the investigator's or complaint committee's recommendation will become the final decision on the complaint.

(c) Notification of final action.

The complaint coordinator must promptly notify the complainant and the mediator in writing of the final action taken by the court on the complaint.

(d) Authorized disclosures.

After the decision on a complaint, the supervising civil judge may authorize the public disclosure of information or records concerning the complaint proceeding that do not reveal any mediation communications. The disclosures that may be authorized under this subdivision include the name of a mediator against whom action has been taken, the action taken, and the general basis on which the action was taken. In determining whether to authorize the disclosure of information or records under this subdivision, the supervising civil judge or designee should consider the purposes of the confidentiality of complaint proceedings stated in rule 3.871 of the California Rules of Court.

10. Interim suspension pending a final decision on a complaint.

If the preliminary review or the investigation indicates that a mediator may pose a threat of harm to mediation participants or to the integrity of the court's mediation program, the supervising civil judge or the other judicial officer or committee designated by the presiding civil judge to make the final decision about the action to be taken on any complaint may suspend the mediator from the court's panel or list pending final decision on the complaint. The complaint coordinator may make a recommendation to the presiding civil judge or the designee regarding such a suspension. (Adopted effective January 1, 2006; Amended effective January 1, 2008; Subd. f (6) Added and Rule Amended effective January 1, 2009; Amended effective January 1, 2010; Amended effective July 1, 2010)

6.13 SETTLEMENT CONFERENCES

- a) A mandatory Settlement Conference will be set by the Court approximately ~~seventeen (17)~~ **thirty (30)** days prior to the trial date unless the Court determines that an earlier settlement conference shall be appropriate.
- b) Unless otherwise ordered by the Court, at any mandatory Settlement Conference, all parties and/or principals with full legal and monetary authority to settle the case shall be in personal attendance. Insurance representatives shall have full authority to settle the case and shall be fully knowledgeable about the case.
- c) Requests for telephone standby shall be approved only by the Judge. If telephone standby is approved, the requesting person shall be available at the agreed location until excused by the Court regardless of the time in that location. In any case where telephone standby has been approved, the Court may, in its sole discretion, continue the conference and order that person to personally attend.
- d) Per California Rules of Court, Rule 3.1380(c) each party shall prepare, file and serve (5) five court days before the conference, a written statement containing the following information:
 - 1. A complete description of the nature of the case and the facts in support of that parties contentions, including both liability and damages, and indicating those matters that are agreed upon or in dispute;
 - 2. The legal contentions of that party with authorities in support thereof;
 - 3. A listing of all alleged economic damages incurred and the basis therefore; and a statement of those agreed to and/or in dispute;

4. All prior settlement offers and demands;
 5. Any perceived impediments to settlement. Settlement Conference statements shall not be confidential unless ordered by the Court.
- e) The trial attorneys or a fully informed associate with full authority to settle the matter shall attend for each party. Counsel shall be prepared to make a bona fide offer of settlement.
 - f) Failure to comply with this rule may result in an award of attorney fees or sanctions pursuant to California Rules of Court 2.30 and Code of Civil Procedure section 128.5.
 - g) These rules shall apply to all settlement conferences whether considered mandatory or voluntary. (Adopted effective October 1, 1998; Amended effective January 1, 2003; Amended effective January 1, 2008; Amended effective July 1, 2010)

6.15 MISCELLANEOUS RULES

- a) Notice of Settlement. The Court shall be notified of the settlement of any case immediately. If the notice is oral it shall be followed by written notification received by the Court within (2) days. If a case is reported as settled all dismissals shall be filed with the Court within 45 calendar days. This time may be extended by written ex parte request, for good cause, on court order. If nothing is received by the Court during this period of time and no extensions have been granted, the court will presume the matter is completed and dismiss the case after 45 days pursuant to California Rule of Court 3.1385.
- b) Orders. If a party is required to prepare any order it shall be prepared, forwarded to all other parties for written approval as to form, and returned to the Court within 14 days. Signature blocks indicating approval of all attorneys and/or parties shall be incorporated into the order. Any party not responding to the request for approval within 5 days shall be deemed to have waived any objection. Proof of mailing shall be provided with the order. If there is an objection to the order the attorneys and/or parties shall meet and confer within five days. If there are any remaining objections each party shall prepare a proposed order and brief letter explaining their objection. It is the responsibility of the attorney/party ordered to prepare the order to forward all objections to the Court in a single package.
- c) Delay in Prosecution. It is the intent of the Court to monitor the process of cases to ensure final resolution within the time guidelines set by the Judicial Council. Where appropriate, the Court shall, on it's own motion, calendar all cases that have not been brought to final judgment within two years from the date of filing of the complaint, for dismissal under applicable California law and Rules of Court. Failure to file timely objections shall be deemed a consent to dismissal.
- d) Pursuant to California Rule of Court 3.740 qualified collection actions will be assigned to the Court's Case Disposition Calendar: A Non-Appearance Hearing* will be set thirteen (13) months from the date of filing. ~~[APPENDIX K]~~

**Appearance is not required should default judgment or dismissal be entered prior to the date set for hearing.*

Upon the filing of a response/denial/answer by a defendant(s) the collection action will be changed to a civil fast track/delay reduction case and a ~~Case Management Conference (CMC)~~ **Mandatory Settlement Conference/Trial Setting Conference (MSC)** will be set within 60-90 days of the filing of the answer/denial/response.

- e) Stayed Cases. The attorneys shall promptly notify the Court if a case is stayed by operation of law (bankruptcy, removal to Federal Court, coordination proceedings, conditional settlement agreement, etc.) If a stay is lifted the attorneys shall notify the Court within ten (10) days.
- f) Alternative Dispute Resolution. It is the policy of this Court to promote and encourage alternative dispute resolution. In any case where Judicial Arbitration is ordered the parties may stipulate to substitute private arbitration or mediation. In any case where the matter is referred to any form of alternative dispute resolution, including Judicial Arbitration, it shall be finally concluded in no more than 90 days if no other date is set by the Court.
- g) Interpreters. It is the responsibility of the attorney/party to obtain an interpreter if needed for any civil matter. A family member, friend, or the attorney may only interpret (1) in an uncontested matter, (2) with the express consent of the party, (3) with the express statement of the attorney that there is no conflict of interest, and, (4) on being properly sworn. (Adopted effective October 1, 1998; Amended effective January 1, 2003, Amended effective January 1, 2007; Amended effective July 1, 2007; Amended effective January 1, 2008; Subd. (d) added, Rule Amended effective January 1, 2009; Amended effective July 1, 2010)

APPENDIX A

CASE MANAGEMENT NOTICE

Case Management Conference Date: _____

- 1. ~~NOTICE is hereby given that a CASE MANAGEMENT STATEMENT shall be filed with the Court and served on all parties NO LATER THAN: 30 days before the above date of the initial CASE MANAGEMENT CONFERENCE..~~
- 2. ~~No party may stipulate to extend the date set above.~~
- 3. ~~At the CASE MANAGEMENT CONFERENCE, it is expected that trial counsel for each party and each self-represented party shall attend and be fully prepared to participate effectively in the conference.~~
- 4. ~~On receipt of the CASE MANAGEMENT STATEMENT and at or before the CASE MANAGEMENT CONFERENCE the Court may make the following orders:~~
 - a. ~~refer the matter to arbitration, the court-directed mediation program, or other alternative dispute resolution procedures;~~
 - b. ~~identify the case as one which may be protracted and in need of special attention;~~
 - c. ~~assign case to a particular judge for all purposes;~~
 - d. ~~assign a mandatory settlement conference and trial date;~~
 - e. ~~make orders establishing discovery schedules and cut-offs, including expert witness disclosure and discovery;~~
 - f. ~~make appropriate TRIAL MANAGEMENT ORDERS; and/or~~
 - g. ~~make any other orders to achieve the interests of justice and the timely disposition of~~

~~—the case, including the setting of additional STATUS CONFERENCES.~~

~~5. It is the policy of this Court that all complaints are served, all challenges to the pleadings be heard, and the matter be at issue no later than 180 days from the filing of the complaint. It is also the policy of this Court that all civil matter be resolved in no more than 12 to 24 months of the filing of the complaint.~~

~~6. Failure to file the CASE MANAGEMENT STATEMENT, attend a CASE MANAGEMENT CONFERENCE and participate effectively, or comply with any CASE AND TRIAL MANAGEMENT RULES may result in sanctions.~~

~~7. It is the responsibility of the parties and/or their attorneys to be familiar with Monterey County Case and Trial Management Policies and Rules and to comply therewith.~~

BY ORDER OF THE PRESIDING JUDGE

~~(APPENDIX A, Adopted effective October 1, 1998; Amended effective January 1, 2003)~~

SEE JUDICIAL COUNCIL FORM CM-110 (JULY 1, 2002)

~~(APPENDIX A, Adopted effective October 1, 1998; Amended effective January 1, 2003) (Repealed effective July 1, 2010)~~

APPENDIX ~~CA~~ SUPERIOR COURT OF CALIFORNIA COUNTY OF MONTEREY ORDER FOR TRIAL MANAGEMENT REPORT AND BRIEF

~~In order to ensure that the case is ready for trial and that there will be no unnecessary delays, the following orders are made:~~

~~1. Trial counsel for each of the parties shall meet and confer prior to trial for purposes of reviewing exhibits, potential witnesses, stipulations, exchange of trial motions, and compliance with this order. Failure to meet and confer concerning the matters herein may result in sanctions, including but not limited to the exclusion or limitation of evidence, monetary sanctions, dismissal of the case, or entry of a default judgment.~~

~~2. The attorneys shall prepare a Trial Management Report and Brief and submit the Report as follows:~~

~~Category One: Friday prior to trial.~~

~~Category Two: Four (4) court days prior to trial, no later than 3:00 p.m.~~

~~Category Three: The Court may set a Trial Management Conference approximately 10 days prior to trial. The attorneys shall meet and confer, prior to the Trial Management Conference, for purposes of preparing the Trial Management Report and Brief. The Trial Management Report and Brief shall be filed jointly or individually at least three days prior to the Conference, otherwise (4) four court days prior to trial.~~

~~TRIAL MANAGEMENT REPORT AND BRIEF~~

~~1. FORMAT OF REPORT~~

The Trial Management Report and Brief shall provide the information requested below. The Report shall be prepared according to California legal format and shall contain the full case caption. The Report shall be typewritten or computer printed on pleading paper. Failure to file a Report as required or provide all requested information may result in exclusion or limitation of evidence, monetary sanctions, dismissal of the case, or entry of a default judgment.

All information requested below must be provided or its absence explained. Attachments may be used to provide additional information or to state the positions of each of the parties.

All discovery must be completed prior to trial. Delays will not be granted for the purpose of conducting further discovery except on a showing of good cause, to include but not limited to a showing of why discovery could not reasonably have been completed prior to trial.

The Trial Management Report and Brief shall include the following information.

2. ATTORNEY AND CASE INFORMATION

Case Name:

Trial Attorneys:

Plaintiff:

Telephone:

Defendant:

Telephone:

Additional Parties:

3. SUMMARY OF THE NATURE OF THE CASE

The Report shall include a summary of the allegations and supporting facts as contended by each party. It is anticipated that the trial Court shall use this information to acquaint itself with the competing allegations and contentions, the contested factual issues, and to inform the jury as to the nature of the proceedings. The summary shall be non-argumentative and concise.

4. STATEMENT OF ISSUES, CAUSES OF ACTIONS, AND DEFENSES

The Report shall include a listing of specific causes of action and defenses as contained in the pleadings.

5. TRIAL BRIEFS, PRETRIAL MOTIONS, AND MOTIONS IN LIMINE

The attorneys shall file all trial briefs, as necessary, with the Trial Management Report and Brief. In addition, the Report shall include a list of all requests for judicial notice, pretrial motions, motions in limine, and appropriate points and authorities.

6. DISCOVERY

Each party shall indicate whether discovery is completed. If discovery is not completed, the Report shall indicate why discovery has not been completed and shall specify the specific areas yet to be completed.

7. STIPULATIONS

Each party shall list agreed upon stipulations and any matter to which they are willing to stipulate.

8. EXHIBITS

The Report shall include a list of all proposed exhibits. Each party shall file a declaration indicating any objections to the exhibits of the opposing parties with a brief statement of reasons. Failure to object to an exhibit shall be deemed a waiver of all objections thereto, and the exhibit may be entered into evidence without further argument. Objections to and editing of medical records shall be accomplished prior to trial, unless otherwise ordered by the Court. All proposed exhibits shall be pre-

marked and exchanged and/or reviewed between the parties. Unless otherwise designated by the trial judge, the Plaintiff/Petitioner will mark his or her exhibits using numbers and the Defendant/Respondent will use letters. Exhibits which are not pre-marked and exchanged shall not be admitted in evidence except on a showing of good cause, to include but not limited to, a declaration as to why said exhibit was not so marked and exchanged.

Any and all exhibits (including any demonstrative evidence, charts, posters, etc.) which are to be viewed by the jury before deliberations shall be identified. These exhibits shall be made available for review. If permitted by the Court, it shall be the duty of counsel to arrange for sufficient copies for each juror, enlargement, or viewing by overhead projector.

It is the responsibility of the parties to obtain and make available all equipment necessary to view any demonstrative evidence. Necessary equipment shall be available, set up, and approved by the Court.

9. DISCOVERY MATERIALS

The Report shall include a list of all depositions intended to be used during trial and any objections thereto. Original, signed depositions to be used during the trial shall be lodged with the courtroom clerk, on the first day of trial. Procedures for presenting the materials during the trial, shall be established by the Court.

10. VIDEO DEPOSITIONS

Parties shall indicate in the Report the intended use of any video depositions. The parties shall review video depositions prior to the preparation of the Trial Management Report and Brief. Objections shall be identified in the Report. The party intending to use a video deposition shall be responsible for editing of any further objections sustained by the Court. The Court shall be provided with an original, signed written transcript of the video deposition.

11. WITNESSES

Each party shall prepare a list of witnesses and the general nature of their testimony [e.g., percipient witness, character witness, expert witness on damages, etc.]. No witness, except a witness for purposes of impeachment, who has not been designated as a witness in the list above shall be allowed to testify except on a showing of good cause, to include but not limited to a showing of why that witness was not so designated. Any witness needing any special assistance shall be identified [e.g., interpreter, disabled, etc.].

All witnesses are expected to be available as needed for trial. Any special scheduling problems shall be noted.

12. VOIR DIRE

The Report shall indicated the subject areas which the parties wish the Court to inquire into and those subject areas which the parties request to ask questions about themselves. Requests for a juror questionnaire or in camera questioning of a juror as to particular matters shall be indicated in the Report and a copy of the proposed questionnaire attached to the Report.

13. JURY INSTRUCTIONS

All proposed instructions shall be lodged with the Court with the Report. However, CACI instructions which are requested without modification may be requested by number. CACI 200 must be completed and modified as it pertains to the particular case. Proposed non-CACI or modified CACI instructions shall be submitted in duplicate. One copy shall be prepared on plain paper, separate from argument or authorities, and shall not indicate by whom the instructions are presented. At the close of

evidence, the trial Court will conduct a hearing on instructions to determine the final instructions to be given to the jury.

14. VERDICT FORMS

Proposed verdict forms shall be filed with the Report. The verdict forms shall be prepared on plain pleading paper and shall not indicate by whom the verdict forms are presented. The trial Court will conduct a hearing to determine the final form of verdict.

15. OTHER REQUESTS: [list all additional requests]

(APPENDIX C, Adopted effective October 1, 1998; Amended effective July 1, 2001; Amended effective January 1, 2003; Amended effective January 1, 2005; Amended effective July 1, 2009; 6.15 Appendix C Re-titled, Amended effective July 1, 2010)

APPENDIX D

Request to Vacate or Continue Initial CASE MANAGEMENT CONFERENCE AND ORDER

~~Counsel and the parties certify that the initial Case Management Conference should be vacated or continued for the following reasons [circle one]:~~

~~1. All parties have appeared and agree to engage in the below ADR program [check ☒ one]:~~

~~☐ Court Directed mediation~~

~~☐ Private mediation~~

~~☐ Nonbinding judicial arbitration~~

~~☐ Private arbitration~~

~~☐ Other:~~

~~**THE PARTIES AGREE TO COMPLETE THE ALTERNATIVE DISPUTE RESOLUTION PROGRAM WITHIN 90 DAYS OF THE FILING OF THIS FORM.** Further Case Management Conference is requested~~

~~2. Case is concluded and judgment or dismissal has been entered as to all parties.~~

~~3. Case has settled; dismissal shall be filed on or before _____.~~

~~4. Case is at issue and all parties agree that matter may be set for trial without the necessity of a Case Management Conference.~~

~~5. All defendants have not been served and the plaintiff has been granted an extension by the court until _____ to complete service on all defendants. Further Case Management Conference is requested.~~

~~6. A defendant has filed bankruptcy; case should be stayed pending the completion of bankruptcy. Plaintiff shall file a Supplemental Case Management Statement within ten (10) days of any action by the debtor or the Bankruptcy Court that would act as a lifting of said stay.~~

~~7. Case has been removed to Federal Court. Plaintiff shall file a Supplemental Case Management Statement within ten (10) days of any remand back to Superior Court or of any judgment or dismissal filed in the Federal Court.~~

~~8. Plaintiff has obtained a default as to all defendants and will perfect the default by entry of court or clerk judgment in timely manner. Further Case Management Conference is requested.~~

~~9. All defendants have appeared and discovery is proceeding in a timely manner. For reasons set forth in the parties' Case Management Statements, the case should be designated (circle one) Category I, Category II or Category III. Parties anticipate case will be ready to set for trial as of _____. Further Case Management Conference is requested.~~

~~10. Other: _____~~

_____. Further Case Management Conference is requested.

Counsel for Plaintiff (*print name*) _____ Counsel for Defendant (*print name*)

Signature _____ Signature

Counsel for Plaintiff (*print name*) _____ Counsel for Defendant (*print name*)

Signature _____ Signature

For additional parties, attach additional signature pages as needed.

Good Cause appearing, IT IS SO ORDERED that the Case Management Conference set for _____ is vacated.

☐ Supplemental Case Management Statements shall be filed as set forth in 6 or 7 above.

☐ Receipt of Dismissal is set for _____.

☐ Further Case Management Conference is set for _____.

____ Parties shall file Case Management Statements prior to said hearing per Local Rule 6.08(c).

PLAINTIFF MUST SERVE A COPY OF THIS ORDER ON ALL PARTIES.

Dated: _____

Judge of the Superior Court

(APPENDIX D: Adopted effective January 1, 2006)

APPENDIX D

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional) _____ EMAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY MAILING ADDRESS: 1200 Aguajito Road CITY AND ZIP CODE: Monterey, CA 93940		
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:		
Request to Vacate or Continue Initial Case Management Conference and Order		
A CASE MANAGEMENT CONFERENCE is scheduled as follows:		Case Number:
Date:	Time:	Dept.:
		Div.:
		Room:

- ▶ IF APPLICABLE, THIS REQUEST AND ORDER MUST BE FILED CONCURRENTLY WITH THE CASE MANAGEMENT STATEMENTS, WHICH ARE DUE NO LATER THAN 30 DAYS BEFORE THE INITIAL CASE MANAGEMENT CONFERENCE.
- ▶ PER LOCAL RULE 6.08(g), IF THE PARTIES DO NOT RECEIVE A SIGNED COPY OF THE ORDER GRANTING THE REQUEST, THEY MUST ATTEND THE CASE MANAGEMENT CONFERENCE.

Counsel and the parties certify that the initial Case Management Conference should be vacated or continued for the following reasons [circle one]:

11. All parties have appeared and agree to engage in the below ADR program [check ☒ one]:

- | | |
|--|--|
| <input type="checkbox"/> Court-Directed mediation | <input type="checkbox"/> Private mediation |
| <input type="checkbox"/> Nonbinding judicial arbitration | <input type="checkbox"/> Private arbitration |
| <input type="checkbox"/> Other: | |

THE PARTIES AGREE TO COMPLETE THE ALTERNATIVE DISPUTE RESOLUTION PROGRAM WITHIN 90 DAYS OF THE FILING OF THIS FORM. Further Case Management Conference is requested

12. Case is concluded and judgment or dismissal has been entered as to all parties.

13. Case has settled; dismissal shall be filed on or before _____.

14. Case is at-issue and all parties agree that matter may be set for trial without the necessity of a Case Management Conference.

15. All defendants have not been served and the plaintiff has been granted an extension by the court until _____ to complete service on all defendants. Further Case Management Conference is requested.

16. A defendant has filed bankruptcy; case should be stayed pending the completion of bankruptcy. Plaintiff shall file a Supplemental Case Management Statement within ten (10) days of any action by the debtor or the Bankruptcy Court that would act as a lifting of said stay.

17. Case has been removed to Federal Court. Plaintiff shall file a Supplemental Case Management Statement within ten (10) days of any remand back to Superior Court or of any judgment or dismissal filed in the Federal Court.

Request to Vacate or Continue Initial Case Management Conference and Order	Case Number:
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18. Plaintiff has obtained a default as to all defendants and will perfect the default by entry of court or clerk judgment in timely manner. Further Case Management Conference is requested.

19. All defendants have appeared and discovery is proceeding in a timely manner. For reasons set forth in the parties' Case Management Statements, the case should be designated (circle one) Category I, Category II or Category III. Parties anticipate case will be ready to set for trial as of _____. Further Case Management Conference is requested.

20. Other:

_____. Further Case Management Conference is requested.

Counsel for Plaintiff (*print name*)

Counsel for Defendant (*print name*)

Signature

Signature

Counsel for Plaintiff (*print name*)

Counsel for Defendant (*print name*)

Signature

Signature

For additional parties, attach additional signature pages as needed.

Good Cause appearing, **IT IS SO ORDERED** that the Case Management Conference set for _____ is vacated.

☐ Supplemental Case Management Statements shall be filed as set forth in 6 or 7 above.

☐ Receipt of Dismissal is set for _____.

☐ Further Case Management Conference is set for _____. Parties shall file Case Management Statements prior to said hearing per Local Rule 6.08(e).

PLAINTIFF MUST SERVE A COPY OF THIS ORDER ON ALL PARTIES.

Dated: _____

Judge of the Superior Court

(APPENDIX D; Adopted effective January 1, 2006; Adopted effective July 1, 2010)

APPENDIX K

COLLECTION CASE NOTICE

Pursuant to California Rule of Court 3.740 this collection action has been assigned to the Court's Case Disposition Calendar: A Non-Appearance Hearing* is set _____ at 10:00 a.m.

The complaint in a collections case must be served on all named defendants, and proofs of service on those defendants must be filed, or the plaintiff must obtain an order for publication of the summons, within 180 days after the filing of the complaint.

Upon the filing of a response/denial/answer by the defendant(s) this action will be changed to a civil fast track/delay reduction case and a Case Management Conference set; Notice of Setting will sent to the parties by the Clerk of the Court.

Effect of failure to serve within required time

If proofs of service on all defendants are not filed or the plaintiff has not obtained an order for publication of the summons within 180 days after the filing of the complaint, the court may issue an order to show cause why reasonable monetary sanctions should not be imposed. If proofs of service on all defendants are filed or an order for publication of the summons is filed at least 10 court days before the order to show cause hearing, the court must continue the hearing to 360 days after the filing of the complaint.

Effect of failure to obtain default judgment within required time

If proofs of service of the complaint are filed or service by publication is made and defendants do not file responsive pleadings, the plaintiff must obtain a default judgment within 360 days after the filing of the complaint. If the plaintiff has not obtained a default judgment by that time, the court must issue an order to show cause why reasonable monetary sanctions should not be imposed. The order to show cause must be vacated if the plaintiff obtains a default judgment at least 10 court days before the order to show cause hearing.

**Appearance is not required should default judgment be entered prior to the date set for hearing.*

—BY ORDER OF THE PRESIDING JUDGE

Date: _____ By: _____
Deputy Clerk

**Alternative Dispute Resolution
Options for Resolving Your Dispute**

There Are Alternatives to Going to Trial

Did you know that 95 percent of all civil cases filed in court are resolved without going to trial? Many people use processes other than trial to resolve their disputes. These alternative processes, known as Alternative Dispute Resolution or ADR, are typically less formal and adversarial than trial, and many use a problem-solving approach to help the parties reach agreement.

Advantages of ADR

Here are some potential advantages of using ADR:

- **Save Time:** A dispute often can be settled or decided much sooner with ADR; often in a matter of months, even weeks, while bringing a lawsuit to trial can take a year or more.
- **Save Money:** When cases are resolved earlier through ADR, the parties may save some of the money they would have spent on attorney fees, court costs, and expert's fees.
- **Increase Control over the Process and the Outcome:** In ADR, parties typically play a greater role in shaping both the process and its outcome. In most ADR processes, parties have more opportunity to tell their side of the story than they do at trial. Some ADR processes, such as mediation, allow the parties to fashion creative resolutions that are not available in a trial. Other ADR processes, such as arbitration, allow the parties to choose an expert in a particular field to decide the dispute.

- **Preserve Relationships:** ADR can be a less adversarial and hostile way to resolve a dispute. For example, an experienced mediator can help the parties effectively communicate their needs and point of view to the other side. This can be an important advantage where the parties have a relationship to preserve.
- **Increase Satisfaction:** In a trial, there is typically a winner and a loser. The loser is not likely to be happy, and even the winner may not be completely satisfied with the outcome. ADR can help the parties find win-win solutions and achieve their real goals. This, along with all of ADR's other potential advantages, may increase the parties' overall satisfaction with both the dispute resolution process and the outcome.
- **Improve Attorney-Client Relationships:** Attorneys may also benefit from ADR by being seen as problem-solvers rather than combatants. Quick, cost-effective, and satisfying resolutions are likely to produce happier clients and thus generate repeat business from clients and referrals of their friends and associates.

Because of these potential advantages, it is worth considering using ADR early in a lawsuit or even before you file a lawsuit.

What Are the ADR Options?

The most commonly used ADR processes are mediation, arbitration, neutral evaluation, and settlement conferences.

Mediation

In mediation, an impartial person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves. Mediation leaves control of the outcome with the parties. The Monterey County Superior Court offers a Court-Directed Mediation Program.

Cases for Which Mediation May Be Appropriate: Mediation may be particularly useful when parties have a relationship they want to preserve. So when family members, neighbors, or business partners have a dispute, mediation may be the ADR process to use.

Mediation is also effective when emotions are getting in the way of resolution. An effective mediator can hear the parties out and help them communicate with each other in an effective and nondestructive manner.

Cases for Which Mediation May Not Be Appropriate: Mediation may not be effective if one of the parties is unwilling to cooperate or compromise. Mediation also may not be effective if one of the parties has a significant advantage in power over the other. Therefore, it may not be a good choice if the parties have a history of abuse or victimization.

Arbitration

In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed.

Arbitration may be either "binding" or "nonbinding." *Binding arbitration* means that the parties waive their right to a trial and agree to accept the arbitrator's decision as final. Generally, there is no right to appeal an arbitrator's decision in binding arbitration. *Nonbinding arbitration* means that the parties are free to request a trial if they do not accept the arbitrator's decision. The Monterey County Superior Court offers a nonbinding judicial arbitration program.

Cases for Which Arbitration May Be Appropriate: Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

~~**Cases for Which Arbitration May Not Be Appropriate:** If parties want to retain control over how their dispute is resolved, arbitration, particularly binding arbitration, is not appropriate. In binding arbitration, the parties generally cannot appeal the arbitrator's award, even if it is not supported by the evidence or the law. Even in nonbinding arbitration, if a party requests a trial and does not receive a more favorable result at trial than in arbitration, there may be penalties.~~

Neutral Evaluation

~~In neutral evaluation, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. The evaluator is often an expert in the subject matter of the dispute. Although the evaluator's opinion is nonbinding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute.~~

~~**Cases for Which Neutral Evaluation May Be Appropriate:** Neutral evaluation may be most appropriate in cases in which there are technical issues that require expertise to resolve or the only significant issue in the case is the amount of damages.~~

~~**Cases for Which Neutral Evaluation May Not Be Appropriate:** Neutral evaluation may not be appropriate when there are significant personal or emotional barriers to resolving the dispute.~~

Settlement Conference

~~Settlement conferences may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or neutral person called a "settlement officer" to discuss possible settlement of their dispute. The judge or settlement officer does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Settlement conferences are appropriate in any case where settlement is an option. Mandatory settlement conferences are often held close to the date a case is set for trial. (Adopted effective January 1, 2009)~~

(APPENDIX K: Adopted effective January 1, 2009) (Repealed effective July 1, 2010)

CHAPTER 7: CIVIL LAW & MOTION

7.11 EX PARTE APPLICATIONS

Ex Parte applications in civil cases ~~should~~ **shall** be filed **pursuant to California Rules of Court Sections 3.1200 through 3.1207**, with the court clerk, directed to the attention of the Supervising Judge, Civil Division. (It is suggested that the moving party telephonically notify the clerk of the Supervising Judge of the filing, to facilitate tracking.)

Ex Parte hearing shall be calendared daily at 1:30 p.m.

As part of the application, the moving party shall submit to the Court a declaration stating the date and time of service on the opposing party of the moving papers.

The notice of ex parte application which is served on the opposing party must contain the following information: (1) neither party is to appear when the application [or opposition] is submitted to the Court; (2) opposition to the ex parte application must be received by the Court within 24 hours of service of the moving papers on the opposing party.

After allowing time for receipt of opposition, the court may set the matter for hearing, or issue a ruling based on the written application and any opposition it has received.

The moving party should submit an order for the Court's signature along with the ex parte application. (Adopted effective January 1, 2004; Amended effective January 1, 2005; Amended effective July 1, 2010)

CHAPTER 9: APPELLATE

9.03 RECORD ON APPEAL

The Court elects to use the original trial court file in lieu of a clerk's transcript. (California Rules of Court, rules 8.833, 8.863, 8.914.) (Adopted effective October 1, 1998; Amended effective January 1, 2006; Amended effective January 1, 2007; Amended effective January 1, 2010; Amended effective July 1, 2010.)

~~Use of an official electronic recording as the record of the oral proceedings in the trial court is permitted by stipulation of the parties or by application to the court for an order permitting its use. (California Rules of Court, rules 8.835, 8.864, 8.915.) (Adopted effective October 1, 1998; Amended effective January 1, 2006; Amended effective January 1, 2007; Amended effective January 1, 2010)~~

CHATER 10: FAMILY LAW

10.08 DEPARTMENT OF CHILD SUPPORT SERVICES

A. APPEARANCES BY TELEPHONE

1. General Provisions

~~In Department of Child Support Services' cases, a party who resides outside California may request permission of the court to appear by telephone in any hearing or conference. Any party who resides within California may, on the basis of hardship, request permission of the court to appear by telephone in any hearing or conference.~~

~~Requests for appearance by telephone will not be granted unless the requesting party has filed with the court and served on the other parties a complete Income and Expense Declaration or Financial Statement (Simplified) including attachments (W-2 forms or 1099 forms and last three pay stubs, copy of Unemployment Insurance Benefit checks, etc.). If self-employed, a copy of the party's last Income Tax Return should be served on the parties and a copy submitted to the court.~~

~~The determination as to whether a party may appear by telephone will be made on a case-by-case basis. The Court shall ensure that the appearance of one or more parties by telephone does not result in prejudice to the parties appearing in person.~~

~~At any time before or during a proceeding or hearing, the court may determine that a personal appearance would materially assist it in deciding the proceeding or hearing and order the matter continued.~~

2. Requests

Requests for appearance by telephone and opposition to such requests shall be made in compliance with California Rules of Court, Family Law Rules, Chapter 7, section 5.324. Judicial Council form FL-679 must be used for requests. Judicial

Council form MC-030 may be used for the declaration in opposition. (Amended effective January 1, 2007; Renumbered effective July 1, 2010)

3. ~~_____ Court Order on Application~~

~~All requests and opposition papers must include a day time telephone number capable of accepting collect calls. For notification purposes, the party may also supply a fax number, if available. At least five (5) court days before the hearing, the court will notify the parties, a parent who has not been joined to the action, and attorneys, if any, of its decision on the request for a telephone hearing. This notice may be given by telephone, in person, by fax, express mail, e-mail, or other reasonable means to ensure notification no later than five (5) court days before the hearing date. (Amended effective January 1, 2007)~~

4. ~~_____ Court Order on Application~~

~~All requests and opposition papers must include a day time telephone number capable of accepting collect calls. For notification purposes, the party may also supply a Fax number, if available. If no opposition is filed, the court will rule on the application at least eight (8) days before the hearing. If the court has not ruled on the application by that time, the application is deemed granted. If opposition is filed, the parties will be notified of the judicial officer's decision at least 48 hours before the hearing.~~

B. CHILD SUPPORT ORDER ATTACHMENTS

All orders for child support must have as attachments:

1. Notice of Rights and Responsibilities Health Care Costs and Reimbursement Procedures (Judicial Council form FL-192);
2. Information Sheet on Changing a Child Support Order (Judicial Council form FL-192, side 2);
3. A computer generated support calculation (required in all cases where there is a child support order whether or not there is an agreement regarding support). If the parties do not agree upon a single calculation each party may attach a computer generated calculation.
4. Notice of Right and Responsibilities, Child Care Costs and Reimbursement Procedures if the order provides for payment of a percentage or ration of child care costs (Monterey County form to parallel the Medical Reimbursement form).

C. LIMITED LEGAL REPRESENTATION

If representation by an attorney is limited in scope, the Notice of Limited Scope Representation form (Judicial Council form FL-950) specifying the scope of the representation shall be filed with the court. All communications and notices relating to the limited purposes shall be made or sent to all attorneys of record, self-represented parties, and the Department of Child Support Services. When the task specified in the Notice of Limited Scope Representation has been completed, the attorney shall file a Substitution of Attorney-Civil (Judicial Council form MC-050) or proceed pursuant to California Rules of Court, rule 5.71. (Adopted effective January 1, 2005; Amended effective January 1, 2007; Section 10.08(D) Repealed effective January 1, 2010; Section 10.08 (A-1), (A-3), (A-4) Repealed, (A-2) Renumbered effective July 1, 2010)

CHAPTER 13: RESET & CONTINUANCE OF TRIAL DATE

13.01 DEFINITIONS

~~Reset: The rescheduling of a trial date within ten (10) days of the mailing of the Notice of Trial by the Court, of an assigned trial date due to the unavailability or conflict of the scheduling of an attorney, party or witness.~~

~~Continuance: The rescheduling of a trial date after the expiration of the time specified for resets. (Adopted effective October 1, 1998) (Repealed effective July 1, 2010)~~

13.02 PROCEDURE FOR RESETTING CASES

~~Since all trials are set without the necessity of appearance at a Trial Setting Conference and therefore without personal concurrence or pretrial counsel, the resetting of any assigned trial, Settlement conference or pretrial date can be accomplished if the request is made within ten (10) days of the date of mailing of the Clerk's Notice of Trial. The procedure for obtaining a resetting of an assigned date is as follows.~~

- ~~1. Notification of the Court Clerk Supervisor within ten (10) days of the Clerk's Notice of Trial of a conflict with the assigned date.~~
- ~~2. The Court Clerk Supervisor will give the requesting counsel a proposed date which is compatible with the Superior Court calendar.~~
- ~~3. The attorney requesting the resetting will confirm the proposed date as a mutually acceptable date with the opposing trial counsel.~~
- ~~4. A written stipulation stating the reason for the reset and the new trial date signed by both counsel will be filed with the Court. Only one (1) reset will be allowed on each case. (Adopted effective October 1, 1998; Amended effective July 1, 2004; Amended effective January 1, 2008) (Repealed, effective July 1, 2010)~~

13.03 PROCEDURE FOR CONTINUING CASES

~~Any motion for continuance must be made before the Civil Supervising Presiding Judge. (Adopted effective October 1, 1998; Amended effective July 1, 2004) (Repealed effective July 1, 2010)~~

CHAPTER 14: CRIMINAL

14.12 POSTING OF A PROPERTY BOND IN A CRIMINAL CASE

Security in Real Property

In lieu of a deposit of cash or a bail bond, the defendant or any other person may give as security any equity in real property which he or she owns. No charge is made to the defendant or any other person for the giving as security of any equity of real property. (*Penal Code 1298*)

Purpose

The purpose of a property bond is to release the defendant from actual custody and guarantee the appearance of the defendant at all future court hearings.

Requirements

A hearing is required if equity in real property is submitted as security. At the hearing, at which witnesses may be called or examined, the magistrate will determine the value of such equity. If the magistrate finds that the value of the equity is equal to twice the amount of the cash deposit required he or she shall allow such bail. (*Penal Code 1298*)

Procedure

- A. To set the matter for hearing, a notice Motion for Real Property Equity Bond with proof of service to the Office of District Attorney and Monterey County Counsel must be filed with the Superior Court Clerk's Office at least 10 5 days prior to the date set for the hearing. The following documents must be submitted as attachments to the motion:
 - 1) Declaration of Property Owner(s).
 - 2) A Notarized Promissory Note in the amount of the required bond.
 - 3) Copy of the Deed of Trust proposed to be recorded securing the promissory note naming Monterey County as Beneficiary and Court Executive Officer of Superior Court of California, County of Monterey, as Trustee.
 - 4) Current Preliminary Title Report including legal description of property, location and all encumbrances from a recognized California Title Company dated within 30 days prior to the application for property bond.
 - 5) Appraisal Report of the fair market value of the property, completed by a certified real estate appraiser. The report should be dated no more that 30 days prior to the application for property bond.
 - 6) Proof of Insurance coverage for the property. Must have an adequate amount of coverage to cover all encumbrances. Must show County of Monterey on the insurance policy.
 - 7) Order Approving Property Bond and Order for Release of Defendant. (*Penal Code 1281*)
- B. All documents submitted for filing must conform to the form/format requirements set forth in California Rules of Court 2.100(b).
- C. The Clerk's Office will review all forms and paperwork to ensure that all necessary items have been presented for court approval.
- D. The Court may require additional evidence in order to ascertain the true equity in the property held by the applicants. (*Penal Code 1280*)
- E. If the Court approves the property bond, the applicant shall record the Deed of Trust with the County Recorder's Office where the property is located to be recorded, and shall deliver to the Clerk of the Court a copy of the recorded Deed of Trust. The original Deed of Trust shall be returned by mail from the County Recorder's Office to the Clerk of the Court. All costs incurred to process the property bond and to comply with this Rule shall be borne by the applicant.
- F. The Clerk of the Court will present the Order Approving Property Bond and Order for Release of Defendant to the Magistrate. Magistrate signs order(s) if not previously signed.
- G. The Clerk of the Court will send a duplicate copy of Order Approving Property Bond and Order for Release of Defendant with court seal affixed, to the County Jail.
- H. The Clerk of the Court will place the Promissory Note and newly recorded Deed of Trust in a sealed envelope and stores the envelope in a secured area.

- I. In the event the property bond is ordered exonerated, the attorney of record must do the following:
 - 1) Prepare a Full Reconveyance form.
 - 2) Schedule an appointment with the ~~Director of Operations~~ **Court Executive Officer or designee**.
 - Director signs the Full Reconveyance in the presence of a notary public provided and paid for by the defendant.
 - Signed Full Reconveyance, cancelled recorded Deed of Trust and cancelled Promissory Note is given to the attorney of record.
- J. In the event the property bond is ordered forfeited, upon entry of summary judgment and order of the court, the Clerk shall prepare an appropriate form of order for the Court's signature directing the Clerk to release the original deed of trust and promissory note to County Counsel for the commencement of foreclosure proceedings. (Penal Code 1280.1(b)) (Adopted January 1, 2008; Rule 14.11 Renumbered as 14.09 effective January 1, 2009; Amended effective July 1, 2010)

14.14 TRIALS BY DECLARATION

The Court adopts the Trial By Declaration process, defined in Vehicle Code Section 40902 and California Rules of Court Rule 4.210. (Adopted effective July 1, 2010)

CHAPTER 19: MISCELLANEOUS

19.01 PEREMPTORY CHALLENGE

~~If a Peremptory Challenge is filed on any matter assigned to a particular department, the case shall be immediately referred to the Presiding Judge for reassignment.~~ (Adopted effective October 1, 1998) (Repealed effective July 1, 2010)

19.10 ~~INTERNET~~ **ONLINE AND HOME STUDY TRAFFIC SCHOOL COURSES**

~~The Court does authorize the use of internet or online traffic school courses.~~ **Court-approved online and home study courses are authorized only in adult cases and not in juvenile traffic matters.** (Adopted effective March 26, 2001; Amended effective January 1, 2008; Amended effective July 1, 2010)